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% AO 120 (Rev. 2/99)	
TO:	
Commissioner of Patents	-
P.O. Box 1450	
Alexandria, VA 22313-1450	
or	
Commissioner of Trademarks	
P.O. Box 1451	
Alexandria, VA 22313-1451	
In Compliance with 35 § 200 and	

REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK

Alexand	ria, VA 22313-1451		ļ		
In Comp	liance with 35 § 290 and/or	15 U.S.C. § 11	16 you are hereby a	dvised that a court ac	etion has been
filed in the U.S. District Court	Colorado	on the follow	ring		
DOCKET NO.	DATE FILED	U,S. D	ISTRICT COURT		
08-cv-01690-MSK-BNB	8/8/2008			HE DISTRICT OF	COLORADO
PLAINTIFF			DEFENDANT		ļ
PROFESSIONAL BULL RI	DERS, INC.		FRED CULBE	RTSON, ALL-STA	AR PBR
PATENT OR	DATE OF PATEN	IT T	HOLDE	R OF PATENT OR	TRADEMARK
1 2,207,333			Please see copy of Complaint attached hereto		it attached hereto
2 a,334,299					
3 3,097,240					
4 3,115,825					
5 3,187,818					
In the abo	ve-entitled case, the follow	wing patent(s) h	ave been included:		
DATE INCLUDED	INCLUDED BY				
	 	Amendment	Answer_	Cross Bill	Other Pleading
PATENT OR	DATE OF PATENT OR TRADEMARK		HOLDER OF PATENT OR TRADEMARK		
1 3,249,568					
2		ĺ			(10)
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4					U.S. Palent & THORe/IM Mail Ropi Di. ≠7
5					
In the abo	ve—entitled case, the follow	wing decision h	us been rendered or	Judgement issued:	
DECISION/JUDGEMENT					
CLERK		(BY) DEPUT	Y CLERK	· -	DATE
GREGORY C.	LANGHAM				

AUG & - 2008

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

GREGORY C. LANGHAM CLERK

Civil Action No. '08 - CV - 01690 - msK-BNB

PROFESSIONAL BULL RIDERS, INC.,

Plaintiff,

VS.

FRED CULBERTSON, ALL-STAR PBR,

Defendants.

COMPLAINT

Plaintiff Professional Bull Riders, Inc., through its attorneys, states the following for its Complaint against Defendants Fred Culbertson and All-Star PBR.

INTRODUCTION

1. This is an action for trademark infringement, false designation of crigin, trademark dilution, unfair competition, and related claims against Defendants, based on their unauthorized and unlawful infringement of Plaintiff's trademarks

PROFESSIONAL BULL RIDERS and PBR, in connection with Defendants' efforts to launch a new business endeavor in direct competition with Plaintiff. Plaintiff brings this action under the federal Lanham Act, the Colorado Consumer Protective Act, and common law to enjoin Defendants' unlawful conduct and obtain damages, disgorgement of profits, attorneys' fees, and other relief as set forth herein.

PARTIES

- Plaintiff Professional Bull Riders, Inc. is a corporation incorporated under the laws of the State of Colorado having a principal place of business at 101 West Riverwalk, Pueblo, Colorado, 81003.
- Defendant Fred Culbertson is an individual who resides in North Carolina and is the apparent President of co-Defendant All-Star PBR.
- 4. Defendant All-Star PBR, a/k/a All-Star Professional Bull Riders
 Association, a/k/a APBR, appears to be an unofficial d/b/a for Defendant Culbertson,
 having a principal place of business at 1012 Village Lake Drive, Monroe, North
 Carolina, 28110.

JURISDICTION AND VENUE

- 5. This action arises under the Lanham Act, 15 U.S.C. §§ 1501 et seq., and supplemental state law. This Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331, 1338, and 1367.
- 6. The Court has personal jurisdiction over the Defendants because they have committed the acts complained of herein in Colorado and directed their infringing activity against Plaintiff, a known resident of Colorado. In particular, inter alia, Defendants operate an interactive Internet website at www.allstarpbr.com, through which they advertise and transact business with residents of Colorado, including selling and shipping merchandise and apparel bearing the infringing trademarks at issue in this Complaint.

7. Venue in this district is proper under 28 U.S.C. §§ 1391(b) and (c), and 1400(b).

GENERAL ALLEGATIONS

Background on Plaintiff

- 8. Plaintiff Professional Bull Riders, Inc. ("the PBR" or "Plaintiff") was formed in 1992 by a group of bull riders who decided to break away from the traditional rodeo scene and form an independent organization to promote, organize, and sponsor bull riding events throughout the United States and other countries.
- 9. By 2007, after 14 seasons of promotions and events, the PBR has fueled bull riding as the fastest growing sport in the country, setting new milestones in membership, recognition, and media attention. Currently, PBR sporting events have attracted major corporate sponsorships including the Ford Motor Company, Wrangler, Jack Daniel's, Dickies, Enterprise Rent-A-Car and the city of Las Vegas.
- 10. In 2007, eight "Built Ford Tough Series" PBR broadcasts were aired on NBC and FOX Sports; all 30 PBR events were aired on the Versus cable channel (formerly Outdoor Life Network). Additionally, foreign broadcasts of Plaintiff's PRB events reached 84 countries and more than 500 million households worldwide. Over 100 million viewers tune in each year to PBR events on network and cable television in the United States.
- 11. Styled as America's original extreme sport, PBR events have enjoyed strong growth in live attendance as well. In 1995, 310,000 fans attended PBR events across the nation. Today, PBR events attract over 1.5 million attendees each year.

During the recent seven-day PBR World Finals in Las Vegas, nearly 90,000 people attended the live show and millions of viewers tuned in at home via network and cable television domestically as well as around the world. In its fifth year on the Versus channel, the PBR World Finals showed a marked increase in ratings.

Plaintiff's Trademarks

- 12. From its inception in 1992, Plaintiff has used the trademarks
 PROFESSIONAL BULL RIDERS and PBR consistently and exclusively to identify its
 sporting events and related entertainment services, as well as on merchandising and
 apparel sold in connection with PBR events such as t-shirts, hats, belt buckles, and the
 like.
- 13. Over the years, Plaintiff has expanded its use of the marks
 PROFESSIONAL BULL RIDERS and PBR to a wider range of goods, including action
 figures, board games, bedding, video games, decals and posters, beverage glasses and
 coffee mugs, key chains, barbecue sauce, and various other apparel and merchandising
 items, all of which reference or evoke Plaintiff's services and/or the sport of bull riding.
- 14. Due to Plaintiff's long-standing, extensive, and exclusive use, the marks PROFESSIONAL BULL RIDERS and PBR have acquired distinctiveness in the minds of the relevant public and have become well-known as identifying Plaintiff's goods and services.
- 15. In recognition of Plaintiff's exclusive right to use the marks
 PROFESSIONAL BULL RIDERS and PBR, the United States Patent and Trademark

Office (USPTO) has granted Plaintiff numerous trademark registrations for these marks, as summarized in the table below:

Mark	Registration No.	Date of Registration	Goods Description
PBR	2,207,333	12/1/98	Printed matter, namely posters and brochures concerning bull riding, decals, and newspapers and magazines concerning bull riding
PROFESSIONAL BULL RIDERS	2,334,299	3/28/00	Printed matter, namely, posters and brochures about bull riding, decals, and newspapers and magazines about bull riding
PBR	3,097,240	5/30/06	Belt buckles, ornamental pins, money clips, watches, clocks and rings made of precious metal; cloth garment bags; belts, wallets, briefcases and all-purpose sports equipment bags; key chains; drinking glasses, beverage glassware, coffee mugs and coffee cups; clothing for men and women, namely, shirts, sweatshirts, baseball style caps, jackets and footwear; toys and games, namely, board games, trading cards, card games, puzzles, activity toys, toy action figures and accessories; barbecue sauce
PROFESSIONAL BULL RIDERS	3,115,825	7/18/06	Clothing for men and women, namely, shirts, sweatshirts, baseball style caps and jackets; toys and games, namely, board games, trading cards, card games, puzzles, activity toys, toy action figures and accessories; entertainment services, namely, arranging, sponsoring and conducting sports competitions in the field of bull riding; and fan clubs
PBR	3,187,818	12/19/06	Muscle and joint pain relief analgesics; gaming machines; bedding, namely sheets, pillow cases, bed covers; blankets, comforters and towels; mats, rugs and wall coverings
PBR	3,249,568	6/5/07	Entertainment services, conducting competitions in the field of bull riding

- 16. Copies of Plaintiff's trademarks registrations for PROFESSIONAL BULL RIDERS and PBR are attached as Exhibit 1.
- 17. Pursuant to 15 U.S.C. § 1065, Plaintiff's first two trademark registrations in the table above for PROFESSIONAL BULL RIDERS and PBR have become incontestable, meaning *inter alia* that they cannot be challenged as being merely descriptive.
- 18. Under its marks PROFESSIONAL BULL RIDERS and PBR, Plaintiff's sporting events and related goods and services are the most popular, most widely known, and most watched and attended events in the field of bull riding in the United States. As such, Plaintiff's marks PROFESSIONAL BULL RIDERS and PBR have become famous among the relevant public.

Defendants' Infringing Conduct

- 19. In July of 2008, Defendants launched a website at www.allstarpbr.com, which uses the marks ALL-STAR PROFESSIONAL BULL, RIDERS and APBR to promote sporting events and a full line of related apparel and merchandising in the sport of bull riding, in direct competition with Plaintiff.
- 20. Based on the information at Defendants' website, Defendants' business plan using the marks ALL-STAR PROFESSIONAL BULL RIDERS and APBR appears to mimic Plaintiff's in nearly every respect, including the promotion of bull-riding events and the sale of a copy-cat line of apparel and merchandise goods.
- 21. Defendants' marks ALL-STAR PROFESSIONAL BULL RIDERS and APBR are confusingly similar to Plaintiff's registered marks PROFESSIONAL BULL

RIDERS and PBR, as Defendants' marks incorporate Plaintiff's marks in their entirety, adding only the letter "A" or the non-distinctive word "ALL-STAR" to Plaintiff's marks. As such, Defendants' marks are similar to Plaintiff's marks in appearance, verbal pronunciation, and commercial impression.

- 22. Plaintiff's and Defendants' services and products are directly competitive and are sold and marketed through the same trade channels to the same general class of consumers.
- 23. Due to the similarity of Defendants' marks for directly competing goods and services, a fan, attendee, or viewer of bull-riding sporting events is likely to be confused or mistaken into believing that Defendants' goods, services, or events are affiliated with, sponsored by, or originate from Plaintiff.
- 24. At no time has Plaintiff given Defendants consent, license, or authorization to use the marks PROFESSIONAL BULL RIDERS and PBR in connection with Defendants' goods or services.
- 25. Given the fame of Plaintiff's PROFESSIONAL BULL RIDERS and PBR marks as used in connection with Plaintiff's well-known sporting events and related goods, Defendants undoubtedly were well aware of the value and goodwill that Plaintiff has obtained in its marks. By choosing nearly identical, confusingly similar marks for directly competing goods and services, Defendants' infringement and conduct in this case has been willful, and this case should be deemed exceptional.

FIRST CLAIM FOR RELIEF (TRADEMARK INFRINGEMENT UNDER § 32 OF THE LANHAM ACT)

- 26. Plaintiff re-alleges and incorporates by this reference the preceding allegations of the Complaint.
- 27. Plaintiff possesses valid and incontestable registrations issued by the USPTO for PROFESSIONAL BULL RIDERS and PBR, for the goods and services set forth in the registrations. Copies of Plaintiff's trademark registrations are attached as Exhibit 1.
- 28. The Defendants' actions as described above, including Defendants' unauthorized use of the marks ALL-STAR PROFESSIONAL BULL RIDERS and APBR marks to identify and promote its competing goods and services, are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendants with Plaintiff, or as to the origin, sponsorship or approval of Defendants' services and products by Plaintiff. Defendants' conduct constitutes trademark infringement in violation of § 32 of the Lanham Act, 15 U.S.C. § 1114.
- 29. Defendants' trademark infringement has caused and continues to cause damage and irreparable injury to the value and goodwill of the PBR's trademarks, as well as damages and irreparable injury to Plaintiff's business, goodwill, and reputation. Plaintiff has no adequate remedy at law because damages are continuing and difficult to ascertain.
- 30. Defendants' continued use of the marks ALL-STAR PROFESSIONAL BULL RIDERS and APBR is deliberate, willful, fraudulent, constitutes a knowing

infringement of Plaintiff's marks, and makes this case exceptional. Plaintiff is entitled to disgorgement of Defendants' profits, as well as recovery of its attorneys' fees and costs incurred in this action.

SECOND CLAIM FOR RELIEF (TRADEMARK INFRINGEMENT AND FALSE DESIGNATION UNDER § 43(a) OF THE LANHAM ACT)

- 31. Plaintiff re-alleges and incorporates by this reference the preceding allegations of the Complaint.
- 32. The Defendants' actions as described herein, including Defendants' unauthorized use of the marks ALL-STAR PROFESSIONAL BULL RIDERS and APBR marks to identify and promote its competing goods and services, are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendants with Plaintiff, or as to the origin, sponsorship or approval of Defendants' goods and services by Plaintiff, in violation of Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).
- 33. Defendants' false designation and representations have caused and continue to cause damage and irreparable injury to the value and goodwill of Plaintiff's PROFESSIONAL BULL RIDERS and PBR marks, as well as damages and irreparable injury to Plaintiff's business, goodwill, and reputation. Plaintiff has no adequate remedy at law because damages are continuing and difficult to ascertain.
- 34. Defendants' continued use of the marks ALL-STAR PROFESSIONAL BULL RIDERS and APBR is deliberate, willful, fraudulent, constitutes a knowing

infringement of Plaintiff's marks, and makes this case exceptional. Plaintiff is entitled to disgorgement of Defendants' profits, as well as recovery of its attorneys' fees and costs incurred in this action.

THIRD CLAIM FOR RELIEF (TRADEMARK DILUTION UNDER § 43(c) OF THE LANHAM ACT)

- 35. Plaintiff re-alleges and incorporates by this reference the preceding allegations of the Complaint.
- 36. Plaintiff's marks PROFESSIONAL BULL RIDERS and PBR are distinctive, inherently or through acquired distinctiveness, and are famous under 15 U.S.C. § 1125(c).
- 37. Defendants' use of the marks ALL-STAR PROFESSIONAL BUILL
 RIDERS and APBR is likely to cause dilution of Plaintiff's marks.
- 38. Upon information and belief, Defendants willfully intended to trade on the recognition of Plaintiff's famous marks.
- 39. Defendants' conduct has caused and continues to cause damage and irreparable injury to the value and goodwill of Plaintiff's PROFESSIONAL BULL RIDERS and PBR marks, as well as damages and irreparable injury to Plaintiff's business, goodwill, and reputation. Plaintiff has no adequate remedy at law because damages are continuing and difficult to ascertain.
- 40. Plaintiff is entitled to injunctive relief, damages, attorneys' fees and costs, and other relief and set forth hercin.

FOURTH CLAIM FOR RELIEF (VIOLATION OF COLORADO CONSUMER PROTECTION ACT, C.R.S. § 6-1-101, et seq.)

- 41. Plaintiff re-alleges and incorporates by this reference the preceding allegations of the Complaint.
- 42. Defendants have engaged in deceptive trade practices in violation of Colo. Rev. Stat. § 6-1-105(a), (b), and (c).
- 43. In the course of their business, Defendants are passing off their goods and services as being associated, affiliated, or originating with Plaintiff, and knowingly are making false representations as to the source, sponsorship, and approval of their goods and services, and knowingly are making false representations as to the affiliation, connection, or association of its products and services with Plaintiff.
- 44. Defendants' deceptive trade practices have had and will continue to have a significant negative impact on the public as actual and potential consumers of Plaintiff's products and services.
- 45. Defendants' deceptive trade practices have caused and continue to cause irreparable injury to the value of Plaintiff's marks PROFESSIONAL BULL RIDERS and PBR, as well as irreparable injury to Plaintiff's business, goodwill, and reputation. Plaintiff has no adequate remedy at law.

FIFTH CLAIM FOR RELIEF (Common Law Trademark Infringement and Unfair Competition)

- 46. Plaintiff re-alleges and incorporates by this reference the preceding allegations of the Complaint.
- 47. Plaintiff's possesses valid and protectable rights in the marks
 PROFESSIONAL BULL RIDERS and PBR, which are inherently distinctive or have
 acquired distinctiveness in connection with Plaintiff's goods and services.
- 48. Defendants' actions as described herein, including Defendants' unauthorized use of the marks ALL-STAR PROFESSIONAL BULL RIDERS and APBR to identify competing goods and services, are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendants with Plaintiff, or as to the origin, sponsorship or approval of Defendants' goods and services by Plaintiff, in violation of Plaintiff's common law trademark rights and the common law of unfair competition.
- 49. By reason of the foregoing, Plaintiff is entitled to injunctive relief and monetary damages against Defendants.
- 50. The infringing conduct of Defendants is attended by circumstances of fraud, malice, or willful and wanton disregard of the PBR's rights warranting an award of punitive and exemplary damages.

JURY DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for entry of judgment in its favor and against the Defendants jointly and severally as follows:

- A. Declaring that Defendants have been and still are infringing the PROFESSIONAL BULL RIDERS and PBR trademarks:
- B. Declaring that Defendants' infringement has been and still is in willful disregard for Plaintiff's rights;
- C. Entering a temporary, preliminary, and permanent injunction against

 Defendants, and their officers, directors, subsidiaries, affiliates, agents,
 employees, successors in interest, and all those acting in concert or active
 participation with them, prohibiting them from offering or selling any
 goods or services bearing or in connection with the marks ALL-STAR
 PROFESSIONAL BULL RIDERS or APBR, or otherwise using in any
 manner the ALL-STAR PROFESSIONAL BULL RIDERS or APBR
 marks, or any other marks confusingly similar thereto:
- D. Awarding to Plaintiff any and all damages recoverable under applicable law or statute;
- E. Ordering Defendants to account to Plaintiff for all sales, revenues, and profits derived from the unlawful conduct as described herein and ordering that all such profits be disgorged and paid to Plaintiff;

- F. Ordering Defendants to withdraw and recall all apparel, merchandise, promotional materials, and any other goods or items bearing the mark ALL-STAR PROFESSIONAL BULL RIDERS and APBR, and either deliver those materials to Plaintiffs for destruction or arrange for their destruction in a manner acceptable to Plaintiffs;
- G. Ordering Defendants to conduct corrective advertising sufficient to inform the consuming public that there is no connection between Plaintiff and Defendants.
- H. Awarding to Plaintiff exemplary and punitive damages in an amount to be determined at trial;
- Awarding to Plaintiff its attorneys' fees, costs, expert witness fees and expenses incurred by Plaintiff in connection with this action as provided for by applicable rule or law;
- J. Awarding to Plaintiff pre-judgment and post-judgment interest on all damages recovered by or awarded to it;
- K. Such other and further relief as the Court deems equitable and appropriate.

Dated this 8th day of August, 2008.

Respectfully submitted,

/s/ Timothy P. Getzoff
Timothy P. Getzoff
HOLLAND & HART LLP
1800 Broadway, Suite 300
Boulder, CO 80302
(303) 473-2700

ATTORNEY FOR PROFESSIONAL BULL RIDERS, INC.

Address of Plaintiff. 101 West Riverwalk Pueblo, Colorado, 81003

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